

CLAY COUNTY PLANNING AND ZONING COMMISSION MINUTES

June 4, 2013

Regular meeting of the Clay County Planning and Zoning Commission, Commission Hearing Room, 3rd Floor, County Administration Building, One Courthouse Square, Liberty, MO.

Call to Order at 6:30 pm.

Roll Call

Members Present: Barbara Ball, Jim Carlson, Mark Beggs and Karl Walters

Members Absent: Gene Knisley and Cecil Troutwine

Staff Present: Matt Tapp, Director
Debbie Viviano, Planner
Tim Flook, Assistant County Counselor
Angie Stokes, Secretary

Mr. Tapp: I would like to call this meeting of the Clay County Planning and Zoning Commission to order. This is Matt Tapp director of Planning and Zoning, and the reason I am speaking is that our Chairman is unavailable this evening and our Vice Chairman is no longer on the board. So the first call to order is to have the board members here tonight select a Temporary Chairman to act as the leader. So I would like to, I can't really make a call to motion or motion to call if the board would be so inclined as to select someone here tonight.

Mr. Carlson: So moved.

Mr. Tapp: Which person, which member? I would advise based on experience, either Barbara or Mark.

Mr. Carlson: I thought Mark.

Mr. Beggs: Barbara do you want it?

Mr. Ball: I don't care.

Mr. Carlson: So moved.

Mr. Tapp: Okay the motion on the floor is to select Mark Beggs as temporary Chairman. I need a roll call. Karl Walters?

Mr. Walters: Yes.

Mr. Tapp: Jim Carlson?

Mr. Carlson: Yes.

Mr. Tapp: Barbara Ball?

Ms. Ball: I object, no (*laugh*) yeah I am fine.

Mr. Tapp: Let me make note here, Mark it is now your meeting.

Mr. Beggs: Okay. First I would like to welcome everybody to the Tuesday June 4th meeting of the Clay County Planning and Zoning Commission we've got three cases tonight. Do we need to do a call to order, roll call?

Mr. Tapp: Yes we need to do a roll call.

Mr. Beggs: So let's proceed with the roll call.

Mr. Tapp: Karl Walters?

Mr. Walters: Present.

Mr. Tapp: Cecil Troutwine?

Mr. Troutwine: Absent.

Mr. Tapp: Jim Carlson?

Mr. Carlson: Present.

Mr. Tapp: Barbara Ball?

Ms. Ball: Present.

Mr. Tapp: Mark Beggs?

Mr. Beggs: Present.

Mr. Tapp: Gene Knisley?

Mr. Knisley: Absent.

Mr. Beggs: Next item on our agenda is to approve the meeting minutes of the Planning and Zoning Commission of March 5th, April 2nd, and April 11th.

Mr. Flook: We may have to reconsider approving the minutes because we don't have enough people here that were at the other meeting and some folks have rotated off the Commission and we would need to make sure they have had an opportunity to see and send a letter or objection if they think the minutes are off. So we've got a little process we've got to go through and we need more people so what might be good is to consider..

Mr. Beggs: Table it?

Mr. Flook: Tabling it and asking it to be set on the July agenda and in between now and then we will try to take those steps so that we can have a vote on the minutes and get them approved.

Mr. Tapp: Okay and I would just like to add to that that our next meeting is scheduled for July 2nd and so we have got to know availability as soon as possible as Tim Flook, County Counselor has mentioned it's very important that we have as many members there as possible and it's the week of 4th of July so we need to know what folks schedules are going to be. Maybe not tonight but go home and look at the calendars and make sure you can be in attendance on that Tuesday before 4th of July.

Mr. Beggs: So is Jim Edwards off the Planning and Zoning Commission and Jeff, they both resigned.

Mr. Tapp: Yes.

Mr. Beggs: Okay. So we will proceed with the regular agenda, the first case is Case May 13-108A it's a request for approval of the 2012 Zoning Map, which includes approved rezoning applications January 1, 2012 through December 31, 2012. The applicant is Clay County. This case is continued from the May 7, 2013 Planning and Zoning Commission meeting.

Mr. Tapp: Yes and Debbie we don't have a staff report? We do it's at the end, okay Mr. Temporary Chairman I would recommend one of two options either A. move it to the end so the folks here don't have to listen through that or B. I go super-fast with the staff report. It is a formality, its part of our code. It's just official zoning map, it's not really used anywhere.

Mr. Beggs: Let's just move it to the end of the agenda.

Mr. Tapp: Okay.

Mr. Beggs: The second case is Case number June 13-109P it's a request for preliminary plat approval of Lazy J Ranch, A Replat of Lot 1A. Replat of Lazy J a proposed subdivision located at approximately 6907 Nebo Hills Road. The applicant is Delbert Gaddis, representing John Sloan. We got both of them here, okay. We will go ahead with the staff report.

Mr. Tapp: Yes Mr. Temporary Chairman, I move that we place the staff report as part of the record.

Mr. Beggs: So be it.

Mr. Tapp: Summarized the staff report June 13-109P dated May 6, 2013. With one additional item that was over looked during the time of the drafting of the staff report, and that is the addition of the stream setbacks to the plat so the graphic of our stream setback ordinance which is the two zones the first zone being the first 50 feet from the center line of the stream and then zone two which is the following 25 feet after that. So we have the graphic on the plat as well as the typical note and we'll add the condition it is very standard language. I can read it verbatim but I would rather not, but it is just a very typical our stream setback ordinance.

Mr. Beggs: Have the applicants read the 5th condition that you are adding?

Mr. Tapp: We've discussed it with the applicants and they are fully aware of it yes. They are aware of the addition, recommended addition.

Mr. Beggs: Okay, could we have the applicant or representative is the one to come to the microphone state your name and address for the record. We just want to make sure you are in agreement.

Mr. Sloan: My name is John Sloan I am the owner of the Lazy J, I am the lazy and the J part of that ranch. Delbert and Sue Gaddis and his son Daniel and his wife have requested my 40 acres on the back of my property so therefore I had to give them an easement down through there, which I have no problem with. If any of you been out in that area that's a very hilly area and the Gaddis' have built two homes, one on the north and one on the south side of this property and both of them have been very nice homes and I think very conducive to what the County is looking for. You have asked if we've all been advised about the stream set aside.

Mr. Beggs: Yeah and really in all the conditions that the staff have had.

Mr. Sloan: All the conditions except that one I was not aware of until yesterday when Delbert, when Mr. Gaddis picked up the final plat and that had been drawn in there. I guess one of my questions would be when this ordinance did or whatever it is take effect in Clay County?

Mr. Tapp: Debbie what year was that approximately? At least the 2000 code?

Ms. Viviano: I believe was in 2003.

Mr. Tapp: 2003?

Ms. Viviano: June the 23rd of 2003.

Mr. Sloan: Okay and so I would have bought that place before that ordinance took effect. I guess the other question is it would appear that this only going to come up on replat's of property?

Mr. Tapp: Just new subdivisions.

Ms. Viviano: New and anything that has changed.

Mr. Carlson: Building permits.

Mr. Sloan: Okay and what good will it do in a 1,000 foot section here that on both sides of that property that easement does not exist. What are we gaining in that situation and probably since the Ellis' on the north, the west, the south part is the bottoms and so I will assume that it would be probably years if that was ever developed and I simply, even though you say that's been involved since 2003, I certainly have not heard of those requirements. If you will look at this particular piece that one doesn't have, do you have the new drawing? (*shows final plat*) This is the final plat.

Mr. Beggs: Is that the same one we have in our packet?

Mr. Tapp: No this is the final plat drawing, it's the preliminary we have.

Mr. Sloan: This is the one picked up yesterday and I understand this is not a County issue but it's certainly an issue for me that I've ended up with nothing but easements and stuff on my property. And as I say to do this to this property when all this around it is unplatted at this point I fail to see. My other question is in these areas and on this particular place this stream that runs down through there starts about right here (*pointing at map*) it has no name, it's not a named stream on my portion of it I can step across it anywhere that it's at and so I have to say at the very least I was shocked when I saw that that this was going to come out. Question being if the Gaddis' want to build a pond down here some time is that going to be allowed? Is that allowed by the County?

Mr. Tapp: Okay so let's go with the first point, the trigger point for any stream setback ordinance is any subdivision of land so we can't go in throughout the entire County and require a stream setback ordinance. The trigger point is whenever someone pursues a subdivision of their land, which is what we are doing here, that is the trigger point. That is the difference between you and the Ellis' they haven't pursued a subdivision yet. And the distinguishing factor between whether or not a stream is considered a part of the stream setback ordinance or not is if it is a blue line on the USGS topo maps and this particular stretch is, if you can see make out there on that map, it is a blue line on the USGS topography map.

Mr. Beggs: Can you point that out to him Matt?

Mr. Sloan: Is that it right here?

Mr. Beggs: Way up higher.

Mr. Walters: I believe it is up higher.

Mr. Beggs: Up north of your property line. See where the 850 is okay it would be to the north of that.

Mr. Walters: Go left a bit.

Mr. Carlson: Down to the right of 30.

Mr. Tapp: This is a tributary that feeds into Rush Creek, is that right?

Mr. Walters: Yes.

Mr. Tapp: Rush Creek is a fairly major creek to this area that feeds into the Missouri River, so yeah it qualifies within our ordinance and then in speaking with Delbert Gaddis, there is a provision in there inside our stream setback ordinance that talks about within zone one, which I will get to here in a second. Zone one and zone two allow for what is called flood control structures, which a pond definitely qualifies as a flood control structure. So you can definitely build a pond inside a stream setback area. The main intent or purpose is to preserve the ecology in and around major, well semi-major, streams and creeks in Clay County. It's called the riparian zones, it's a tree covered zone

between each side of a stream, we are trying to preserve that to where folks won't build accessory structures and other things, other man-made structures within 75 feet of the center line of the stream.

Mr. Beggs: Basically we don't want you cutting down all the trees and putting concrete in the bottom of the

Mr. Tapp: Now you certainly can take out dead trees and things like that and add trees for sure. And also flood control structures, utility right away, foot paths, foot bridges, road crossings where permitted driveways where approved by highway and planning. So we are definitely not eliminating everything, it's just we are trying to keep it in tact as much as possible to cut down on erosion and sediment. And the ordinance is currently under review to make sure we are up to the current way of doing things, so I know the City of Kansas City and other cities have passed ordinances since 2003 that don't quite match what we have so it is currently under review.

Mr. Sloan: I mean I can understand, I don't have a problem with the thought process behind it of trying to keep the streams clean and things like that, I do have a problem with a stream of this size and just located on my property. It talks about walking paths how would people ever get to those? Would I have to let them in because it's a County?

Mr. Tapp: No, this is not an easement; it's just a setback on a plat. There is no easement tied to this.

Mr. Beggs: Just a restriction to the people who own the property. It's a restriction of what can be built inside that zone; it's not an easement or access.

Mr. Tapp: It's not a recreation easement or anything like we are going to put a trail through there. The only time it would happen, Mr. Sloan is if this was part of the Northland Trails Vision Plan and this was a designated route, which I don't believe it is a designated route so the likelihood of a public trail going through there is extremely unlikely.

Mr. Beggs: We can never bring a public trail through without you know paying for the land or condemnation or something.

Mr. Tapp: Exactly.

Mr. Beggs: They couldn't just come through and all a sudden people start walking through your property.

Mr. Tapp: No.

Mr. Sloan: I understand what you are saying, but here is something that's happened now that I certainly did not know anything about. And I would imagine that most the people, Jim you get involved in development all the time, has this become an issue for you on any of your properties?

Mr. Carlson: I haven't developed in a long time but I know it is a big issue with developers. Department of Natural Resources or FEMA even considers a puddle.

Mr. Sloan: I can see where the density and stuff if you are in a subdivision and this is always kind of funny to me, we talk about subdivisions of 20 acres and when I think of subdivision I personally do not think about that. Here you have three pieces of property rather than an hundred pieces property that you are trying to keep control of the streams, I can certainly see it in that but I simply can't see us pulling this out of the middle of all the land down through there and say you have no choice and do we have a choice? I mean is there any choice in saying we simply don't want that on there. I don't have a problem with the 75 foot set aside because none of us are going to want that out there. They are going to live back on the back of it rather than on the front of it and so none of us have any intention of building out there. There is intention to build a pond on that which then basically as far I'm concerned does away with that.

Mr. Carlson: I don't think it restricts your rights at all.

Mr. Beggs: And if you think about that if you come down here I don't know what the contours look like there, but if you come and dam this up I don't know how far you will back water up, but probably a lot that is going to get ate up water anyway. So I don't know that you're extremely hurt by that setback if you are going to dam it up and fill it full of water anyway. I'll just throw that out there for what it's worth.

Mr. Sloan: I guess my main concern is from the stand point that we say today that you can build a pond on it almost like we have to do it right now because next month that may change and I understand how ordinances and stuff change for different reasons but just because it's like that today doesn't mean that next week there is not something else going on with that continues to erode. Because I can tell you if I was looking at this property and I see this to me it devalues the property, because there is a set aside

on it. On this piece of property we've got an easement all around the property for utilities and so now this is one more. Obvious by my choice and the Gaddis' I have given them the easement for a roadway and so I accept that responsibility what that does to property value but I am concerned by showing this is going to become a question every time and when and if I go to sell the property of what that set aside was there for.

Mr. Carlson: One of the big issues is septic systems and it regards the location of a home when you are building a home you have to consider that and so you can't discharge into that.

Mr. Sloan: That is in effect now basically.

Mr. Carlson: Right, it's not really a big change. They've made it a little wider that is all. Right Matt, we have always had stream setbacks?

Mr. Sloan: Let's go back to my other question can we say we don't want this?

Mr. Tapp: There's no provision in the code that is a clause out, so to speak, there is no provision in there. If it's a blue line on the USGS by our code we must enforce it and say there must be a stream setback.

Mr. Sloan: Okay then the next question is what are our options? To either accept it or not go for the replating.

Mr. Tapp: Sure there is a couple of options here is one you can hold your request here and go to the Board of Zoning Adjustment and request a variance from the code or two it's currently being evaluated, I can't give you a timeline as to when any type of amendments to this might go before this board and then the County Commission, but those changes might benefit you and they may not. So those are really your two options.

Mr. Sloan: I guess ...

Mr. Tapp: But we definitely have heard this and I can completely understand about the classification or class level of a stream, like you said if you can walk across it should we really have 75 feet, I'd say probably not, but that's definitely being evaluated and looked at by other cities, other Counties what they are doing with the stream setbacks.

Mr. Sloan: I guess it's not so much the set aside of 75 feet it's any set aside at all, because so many of it as Jim said you can't put a sewer within so many feet of that.

Mr. Tapp: It's Zone one, which is the first 50 feet you can't but in the second zone you can. So it's just the first 50 feet and if you are going to put a lateral system within 50 feet of a stream like that I don't, you don't want to do that.

Mr. Sloan: That's right but I am just asking is most of that stuff already covered under other ordinances and stuff? So right now we can build a sewer within 50 feet of that creek or put a septic tank?

Mr. Tapp: You would have to ask the Health Department. I don't know what the Health Departments Codes are, I have no idea they control it.

Mr. Sloan: I almost guarantee you they wouldn't let you do that.

Mr. Tapp: I don't know I don't control their codes so I don't know. But you are not the first and we are definitely receptive to the questions and we are definitely evaluating changes to the code and I'm sure a change will be coming down the pipe here shortly.

Mr. Carlson: I don't think it will become less restrictive I think it will become more restrictive.

Mr. Tapp: Where we are looking at I can't really say right now. We are not to that level of here's what we think we should do, we are just taking everyone's code in, you know reading every code which is fun and seeing what possible changes we can make.

Mr. Sloan: Well as I said I have no problems in subdivisions like Jim builds in I do have a personal problem with doing this out in the country like that is on a stream that I certainly don't consider a major stream and happens to have its beginning just off of our property. The Gaddis' just sold their house to the north of mine with 11 acres and so there was 300 and some feet of that on there, that's not on there because they sold it and didn't have to go before Planning and Zoning. So you are going to get places had I sold this whole place that wouldn't have been on there because we wouldn't have to come before Planning and Zoning.

Mr. Beggs: You have to take a little broader view too, a lot of the codes that we have written are kind of taking into account of eventual Urban sprawl, so it may not be in our lifetime but eventually there will be 100 pieces of property on this. I mean like I said it may not be now and if you don't have these

protections in place when do we do that? And so that's kind of where the Land Development Code comes in, just like we don't want piano key divisions of land, because it makes it hard to later go in and make that become part of a city. So that's, if you take a bigger view of what the code is about some of that is coming in here as well.

Mr. Sloan: So you are saying our two options come before the variance board?

Mr. Tapp: To request a variance from this section of code and if the BZA grants that it would not be part of the plat. There probably would be a note in there saying that BZA approved variance.

Mr. Sloan: You probably can't answer this, do we have a snowball in hell's chance.

Mr. Beggs: What's been the past history of them approving these types of variances?

Mr. Tapp: It never happened in the past.

Mr. Sloan: That's what I thought.

Mr. Tapp: I don't know it is hard to say it's based on the people's minds and mind sets, I don't know. You got to prove a true hardship and not a mere inconvenience and I don't know I would have to evaluate it I can't really say yay or nay.

Mr. Sloan: And what does this do with any crossings that you are going to build in that area?

Mr. Tapp: Like I just said there's allowed road crossings where permitted and driveway when approved by the Highway and Planning Department. So you get a corp permit to cross that creek you're fine with us and as long as Karl says the driveway is okay, yes. It's mainly geared, Mr. Sloan, towards man-made structures houses, accessory buildings, barns those types of things.

Mr. Sloan: Do you want to take it before the variance?

Mr. Gaddis: (inaudible)

Mr. Sloan: When is the next variance meeting?

Mr. Tapp: The application deadline would be towards the latter part of June for the July meeting.

Ms. Viviano: It would be at the end of July sometime then we would have to send out the certified letters to the adjoining property owners.

Mr. Tapp: So I would recommend tabling it until August that is what your choice is and then pursue the variance, then this board would pick it back up in August, the meeting in August. That's the time table.

Mr. Sloan: Can we, is there any provision to accept this under protest, that we can come back and visit it at a later date if we wanted to?

Mr. Tapp: We keep minutes and your comments are duly noted in the record and we will definitely keep track of it, but it's in the code and it's black and white and we as staff have, it's our duty to enforce it.

Mr. Sloan: I understand that.

Mr. Tapp: But I definitely understand exactly where you are coming from and it's definitely being evaluated.

Mr. Beggs: They almost have to go before the BZA before this is approved here, need the variance before.

Mr. Tapp: If they don't want the stream setback on there, yes definitely the option.

Mr. Sloan: But what I am saying now if we choose not to go before the variance because we are going to get into winter time here by delaying this the road and stuff won't be able to put in, if we accept it as written but under protest you're saying it's in the minutes, Debbie you are shaking your head no.

Mr. Tapp: It's in the minutes.

Ms. Viviano: There's no protest it's just that you did protest against it.

Mr. Sloan: What I am saying if we decided to, if something came up at a later date can we come back and readdress that issue at that point?

Mr. Carlson: I think that is a good question, can they ask for variance after this meeting?

Ms. Viviano: Once this final plat has been recorded it will be on the final plat the only way you can get that off the final plat I guess would be another replat.

Mr. Tapp: Replat.

Mr. Sloan: Aylett's already made too much money off this place.

Mr. Beggs: So what do you want to do? Do you want to table it, do you want to proceed? It's your call.

Mr. Sloan: It's really up to you guys what do you want to do? (to Mr. Gaddis)

Mr. Delbert Gaddis: It's on your land the most.

Mr. Sloan: Well no it's not it's going to be more on your property then there is on mine.

Ms. Gaddis: We're okay with it.

Mr. Sloan: You're alright?

Mr. Daniel Gaddis: Can you take trees out to build a pond?

Ms. Viviano: Sir, can you come up here and state your name that would be fine, because we record these. Thank you.

Mr. Daniel Gaddis: Daniel Gaddis, my question is if we do the pond would we be able to remove timber for that pond?

Mr. Tapp: Sure.

Ms. Ball: Yeah.

Mr. Carlson: Oh sure.

Mr. Beggs: Live and dead timber?

Mr. Tapp: If it is tied to the construction of the pond, as long as you don't remove all the timber all through the entire stretch of stream, it's not really a part of the pond construction. Anything tied to the pond construction, for sure.

Mr. Daniel Gaddis: Okay that's all the questions I had.

Mr. Sloan: My only other question, I don't know if this (*inaudible*) there's a part in there about 41 hundred and twenty-five dollars for road improvement.

Ms. Viviano: Not road improvements, road impact.

Mr. Sloan: Okay road impact.

Ms. Viviano: Because there will be additional traffic added to Nebo Hills Road.

Mr. Sloan: I understand that, but at one time in talking with you Debbie you had said it was a 3 inch or 4 inch overlay and that is not the case.

Ms. Viviano: No, no that is what it is figured on. The road impact fees are figured on that because it's a chip and seal and they figure it on that basis.

Mr. Walters: That's what they figured it on 3 to 4 inch base of asphalt but that road will not be asphalt it will always be chip and seal.

Ms. Viviano: But it's the extra maintenance that's it going to cost the Highway Department because of the extra traffic that will be added to that road because there will be two extra families in there, they're going to be driving. We look at; I believe in here its 10 trips a day or six? I think it's 10.

Mr. Tapp: It's ten I believe for a small family.

Ms. Viviano: I think it's 10 that we look at 10 on it.

Mr. Sloan: Okay that's really immaterial to me I guess the question would be if we are basing the cost on 4 inch overlay and we've got chip and seal why is it...

Ms. Viviano: It's a 3 inch.

Mr. Sloan: 3 inch, is there not a cost difference?

Mr. Walters: There is a little bit of a cost difference but we probable chip seal it three to four times in the lifetime of the asphalt, so by that time the cost is right there and then above the average cost of what it would do three to four inches of asphalt, because the cost of oil and everything is costly now for chip and seal. So in a six/eight year period give or take two years we'll probably have that road done two to three times.

Mr. Sloan: It must be time to do it.

Mr. Walters: It's getting close.

Ms. Viviano: The County actually pulls in half of that, I mean that's what we are considering half.

Mr. Sloan: Okay well thank you very much, I think we will go ahead and leave it as it is, but I do want it noted that in the minutes that I did protest that deal.

Mr. Tapp: So noted Mr. Sloan.

Mr. Daniel Gaddis: My question is the chip and seal the road improvement fee or whatever you are calling it.

Mr. Walters: Road impact.

Mr. Daniel Gaddis: Impact fee, there hasn't been any maintenance on that road in 16 years.

Mr. Walters: I beg to differ we keep track of all that, and I can tell you clear back to 2002 how many times we have done that road. So any time you want to know come up to the office and I will give you that information.

Mr. Delbert Gaddis: Once.

Mr. Daniel Gaddis: So when's going to be a \$4,000 fee or something on, I guess my thing, I lived out there then I moved away and so I took traffic away from that road and now I am moving back.

Mr. Walters: But you are not the only one who lives out there, remember that.

Mr. Daniel Gaddis: I know but...

Mr. Beggs: And you have to think about life cycles of pavement too. \$4,000 over a 20 year life span is \$200 a year. He runs a blade out there for an hour couple hours a year you have eaten up that \$200. So you kind of have to think...

Mr. Daniel Gaddis: So when you say a blade it would be like?

Mr. Beggs: A motor grader, he runs a motor grader out there to maintain that road, if he spends a couple of hours a year out there he's pretty much ate up that \$200 per year allotment so you kind of have to again take this big picture all though you are paying it up front it's a onetime fee for the life of your property.

Mr. Walters: Right like how long you are going to live there, you're going to live there 30 years and I got paid for 6 years but we are still maintaining that road the County is always going to be here, we're always going to turn around and chip seal the road.

Mr. Beggs: By the way that was Dan Gaddis just for the record.

Mr. Daniel Gaddis: Thank you.

Mr. Walters: Thank you Dan.

Mr. Beggs: So are there any other comments from the public? Any other discussion? Any discussion from the Commission? Do I have a motion?

Ms. Ball: Mr. Alternative Chairman?

Mr. Tapp: Temporary Chairman.

Ms. Ball: Temporary Chairman I make a motion that we approve Case number May 13-108A with 5 conditions.

[NOTE: Ms. Ball voiced the wrong case number during her motion. Her intent was to motion approval of case number June 13-109P]

Mr. Beggs: Second?

Mr. Carlson: I'll second.

Mr. Beggs: We have a second?

Mr. Carlson: From Jim Carlson.

Mr. Tapp: Karl Walters?

Mr. Walters: Approved with the conditions.

Mr. Tapp: Jim Carlson?

Mr. Carlson: Approve.

Mr. Tapp: Barbara Ball?

Ms. Ball: Approved.

Mr. Tapp: Mark Beggs?

Mr. Beggs: Approved with conditions.

**Final Vote: 4/0/0 Approve Preliminary Plat June 13-109P; Lazy J Ranch
With Five (5) Conditions**

Mr. Tapp: I don't if, Mr. Temporary Chairman, if we had mentioned that these cases brought before tonight will be forwarded to ... if I can find my agenda. Debbie where are these being forwarded to what is the date?

Ms. Viviano: June the 17th.

Mr. Tapp: As scheduled they'll be forwarded to the June 17th 1:30 p.m. County Commission meeting. So it's important that the applicants and fine folks here that it is being forwarded to the June 17th.

Mr. Delbert Gaddis: We need to go to that?

Mr. Tapp: It is recommended that applicants go to that. That's the work session where it's very similar to this where they are discussing it definitely at that one.

Mr. Delbert Gaddis: What time?

Mr. Tapp: 1:30 p.m. same room.

Mr. Beggs: Thanks for coming out.

Mr. Walters: Thank you folks.

Mr. Tapp: Thank you.

Mr. Beggs: The third case on tonight's agenda is Case number June 13-110RZ/P it's a request for rezoning from Agricultural (AG) to Residential Urban Rural Single-Family district (RU-80) for proposed lot 1 only and preliminary plat approval for the proposed subdivision of Morton Acres located at approximately 13800 Carmel Road. The applicant is Ronald E. Morton, representing Morton Asset Management, LLC. Staff have a report?

Mr. Tapp: Yes Mr. Temporary Chairman if I may first make a recommendation that the staff report be part of the record.

Mr. Beggs: So be it.

Mr. Tapp: Summarized the staff report June 13-110RZ/P dated April 17, 2013.

Mr. Beggs: Thank you, is applicant present? Would you mind stepping forward and stating your name and address so we can have it on the record.

Mr. Morton: My name is Ron Morton and I live at 25219 Marel Road, Excelsior Springs and I'm here pretty much asking for this to be rezoned for a development there and then Agricultural on the other portion.

Mr. Beggs: You have had discussions with staff?

Mr. Morton: Yes

Mr. Beggs: Are you agreement with the conditions they have set forward?

Mr. Morton: Yes.

Mr. Beggs: Okay any other public comments, Commission comments? No, do I have a motion?

Ms. Ball: Mr. Chairman I make a motion on case number June 13-110RZ/P for the approval to rezoning.

Mr. Beggs: Do I have a second?

Mr. Walters: Second.

Mr. Beggs: Call to vote.

Mr. Tapp: To be clear Mr. Temporary Chairman that was for the rezoning?

Mr. Beggs: Right for the rezoning.

Mr. Tapp: Karl Walters?

Mr. Walters: Approve with the conditions.

Mr. Tapp: Jim Carlson?

Mr. Carlson: Approve.

Mr. Tapp: Barbara Ball?

Ms. Ball: Approve.

Mr. Tapp: Mark Beggs?

Mr. Beggs: Approve.

**Final Vote: 4/0/0 Approve Rezoning June 13-110RZ/P; Morton Acres
With Three (3) Conditions**

Mr. Tapp: And we also need a vote for the preliminary plat as well.

Mr. Beggs: Do I have a preliminary plat motion?

Ms. Ball: Mr. Temporary Chairman I make a motion for the approval of the preliminary plat of Morton Acres with three conditions.

Mr. Beggs: Do I have a second?

Mr. Walters: Second.

Mr. Beggs: Call to vote.

Mr. Tapp: Karl Walters?

Mr. Walters: Approve with conditions.

Mr. Tapp: Jim Carlson?

Mr. Carlson: Approve with conditions.

Mr. Tapp: Barbara Ball?

Ms. Ball: Approved with conditions.

Mr. Tapp: Mark Beggs?

Mr. Beggs: Approved with conditions.

**Final Vote: 4/0/0 Approve Preliminary Plat June 13-110RZ/P; Morton Acres
With Three (3) Conditions**

Mr. Beggs: So moving back up to case number one on our agenda the May 13-108A; a request for approval of the 2012 Zoning Map, which includes approved rezoning applications January 1, 2012 through December 31, 2012. The applicant is Clay County. This case is continued from the May 7th, 2013 Planning and Zoning Commission meeting.

Mr. Tapp: Mr. Temporary Chairman I recommend that we place the staff report as part of the record for discussion.

Mr. Beggs: So be it.

Mr. Tapp: Summarized the staff report May 13-108A.

Mr. Beggs: Do I have any questions from the Commissioners?

Mr. Carlson: No questions.

Ms. Ball: No.

Mr. Beggs: Do I have a motion?

Ms. Ball: What do you need a motion for? I'm sorry.

Mr. Tapp: Approval of the 2012 Official Zoning Map.

Ms. Ball: Mr. Chairman I make a motion that we approve the Official Zoning Map of 2012.

Mr. Beggs: Do I have a second?

Mr. Carlson: I'll second it.

Mr. Beggs: A call to vote.

Mr. Tapp: Karl Walters?

Mr. Walters: Approve.

Mr. Tapp: Jim Carlson?

Mr. Carlson: Approve.

Mr. Tapp: Barbara Ball?

Ms. Ball: Approve.

Mr. Tapp: Mark Beggs?

Mr. Beggs: Approve.

Final Vote: 4/0/0 Approve Official Zoning Map May 13-108A; 2012 Zoning Map

Mr. Beggs: On to other business the staff has given us Clay County Planning and Zoning Departments activity list, does everyone have a copy? Applications take a minute and review those if we have any questions.

Mr. Tapp: It's great news to inform folks that we are doing very well this year versus last year, which last year was even better than the year before. So we can bear witness to the slow recovery of the economy reflected in the building construction activity. And development will not be far behind I can promise you that one.

Mr. Beggs: Good. And questions?

Mr. Carlson: No questions.

Mr. Beggs: Okay move on to the next item. National Pollutant Discharge Elimination System (NPDES) Phase II Year End Annual Report (4th Yr. of 2nd 5-Year Plan, reporting period 06/13/12-06/12/13)

Mr. Tapp: You should have received a copy in your staff report you are more than welcome to review it. You may recall in our last meeting we had the 5-Year Plan before the board this is the other component to our NPDES general permit, which is our annual in review report. So it's in the past year what did we do, did we follow up and do what we said we were going to do from the 5-Year Plan. We didn't match the formatting of this to our new 5-Year Plan new format we may look at that in the future but this is the annual report.

Ms. Viviano: This is the end of the last year we had the 5-Years before.

Mr. Tapp: This is the past year June 2012 to June of 2013 right now a year in review. And I would recommend a vote just to make sure even though it is not an agenda item this is the Stormwater Panel we might as well do a vote for approval.

Mr. Beggs: That we have reviewed it or approved the report.

Mr. Tapp: Do we have time for them to review it Debbie for the next July 2nd meeting? When is this due to DNR?

Mr. Walters: Nope.

Mr. Tapp: Okay then I recommend that we don't have a vote then.

Mr. Beggs: Okay.

Mr. Tapp: If you don't feel you had enough time to review it I say there is no vote.

Ms. Viviano: We have to have turned into them by July and for us to...

Mr. Tapp: We don't want to risk it.

Mr. Carlson: Matt, do any other government agencies review this like the EPA or the DNR.

Mr. Tapp: We submit it to DNR who is the local regulator of the Water Act.

Mr. Carlson: They give out comments?

Mr. Tapp: They certainly can and we do get feedback a little bit on occasion from DNR on this, we definitely been in communication with them here and there about different aspects to our five year plan and this is kind of tied to that as a follow up.

Mr. Carlson: So they've made recommendations.

Mr. Tapp: Yes to a certain degree, yes more like a consultant if you will of what we may want to look at doing.

Ms. Viviano: (*inaudible*)

Mr. Tapp: That's a very good point. DNR and EPA strongly encourage a stream setback ordinance. If you don't have one they'll be knocking on your door asking why you don't, because it's a good mechanism to protect the streams.

Mr. Walters: How many people are aware of that?

Mr. Tapp: Of the stream setback ordinance?

Mr. Walters: No the idea that we'll get a knock on the door, just a question.

Mr. Tapp: Not very many.

Ms. Viviano: Not very many.

Mr. Walters: Well will they make you follow that guideline.

Mr. Tapp: It will be a tick mark or a negative on you.

Mr. Walters: I understand that but eventually they'll make you follow that guideline.

Mr. Tapp: Yeah, the EPA has kind of a standard rotating auditing process and we will be audited at some point or another and this is tied to it. So if we don't have one then we would be knocked so to speak.

Mr. Walters: I am okay with that as long as everybody else is aware of it.

Mr. Tapp: Yes. But we are evaluating it like I said, we want to make sure that we're up to the current newer trends of stream setbacks and make sure we are not in the dark ages so to speak. That's what we are doing right now. And I do believe my personal opinion is Williams Creek or the actually Rush Creek or especially Clear Creek in Kearney is way different the this tributary so I don't think we should have across the board straight 75 feet and that is what we are kind of looking at to see what other folks are doing. It's just hard to come up with a good classification system that may already be in place.

Ms. Viviano: Without having to charging making more money for the people to plat and then to go and get an evaluation.

Mr. Tapp: But City of Kansas City you have to survey where the banks are instead we just do the center line of the creek which is fairly easy and the surveyor can pull up the map and draw over it and do 75 feet off of that. A lot of cities are saying no you got to figure out where the edge of the bank is and then go out from there, so we also want to be receptive to property owners and make sure not to much of a hardship on them.

Mr. Carlson: I know I had to make application to FEMA before it was a quick process. They are not very nice to deal with.

Mr. Tapp: So that's it for that, it's just the annual report.

Mr. Beggs: Any other business that we need to discuss?

Mr. Tapp: None Mr. Temporary Vice-Chairman.

Mr. Beggs: Do we need to go into Executive Session is there something pending that?

Mr. Tapp: No.

Mr. Flook: No unless you want to sue somebody. Good way to get into the paper.

Mr. Beggs: With that said do we have a motion to adjourn?

Ms. Ball: I make a motion that we adjourn.

Mr. Beggs: All in favor?

All: Aye.

Meeting Adjourned

Chairman, Planning & Zoning Commission

Secretary, Planning & Zoning Commission

Recording Secretary